

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

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TRUSTEES OF THE PLUMBERS AND
PIPEFITTERS UNION LOCAL 525HEALTH
AND WELFARE TRUST AND PLAN, et al.,

Plaintiff,

VS.

ENTERPRISE PLUMBING & MECHANICAL, LLC.

Defendant.

2:12-cv-00039-MMD-VCF

ORDER

[Motion for Leave to File First Amended Complaint #34]

Before the Court is the Plaintiffs' Motion for Leave to File First Amended Complaint. (#34).

Relevant Background:

The Complaint (#1) was filed on January 10, 2012 and the Answer (#8) was filed on February 22, 2012. On February 28, 2012, Plaintiffs' filed the Motion to Strike Answer to Complaint, and Enter Default pursuant to Fed. R. Civ. P. 12(f) and 55(a). (#9). On March 21, 2012, James E. Smyth, II, Esq. filed a Notice of Appearance of Attorneys (#13) and filed an Answer on behalf of Defendant. (#'s 13 & 15). The Opposition to the Motion to Strike Answer to Complaint was filed on March 21, 2012 and the Reply in Support of the Motion to Strike Answer to Complaint was filed on March 23, 2012. (#'s 16 & 17). On June 1, 2012, the Court approved the Discovery Plan and Scheduling Order. (#21). The Motion to Strike Answer to Complaint was denied as moot. (#24). On October 15, 2012, the Court granted the parties request to extend discovery deadlines. (#31). On January 3, 2013, the parties filed a Stipulation and Order of Dismissal with Prejudice as to the claims of the audit period of April 7, 2010 to June 1, 2011 only. (#36). The Court granted the stipulation on January 4, 2013. (#37).

1 **Discussion:**

2 On November 30, 2012, Plaintiffs seek leave to file the first Amended Complaint pursuant to
3 Fed. R. Civ. P. 15(a)(2). (#34). Plaintiffs, in their Complaint (#1), seek access to Defendant's
4 information and to conduct a contract compliance review to determine if Defendant made all
5 contributions to the Trust Funds on behalf of Enterprise's employees. "On November 15, 2012, the
6 Auditor completed a draft of the Audit, showing delinquencies." *Id.* In light of the audit, Plaintiffs
7 determine that delinquent contributions were owed and "seek leave to file their proposed First Amended
8 Complaint [...] to add a claim against Enterprise for delinquent contributions it owes to the Trust Funds
9 in addition to all corresponding interest, liquidated damages, attorneys' fees and costs." *Id.* Plaintiffs
10 have given sufficient reason to file their proposed Amended Complaint as attached as Exhibit 1 in their
11 motion.

12 To date, an opposition to the motion has not been filed. Pursuant to Local Rules 7-2(d), the
13 failure of an opposing party to file points and authorities in response to any motion shall constitute a
14 consent to the granting of the motion.

15 IT IS HEREBY ORDERED that the Plaintiffs' Motion for Leave to File First Amended
16 Complaint (#34) is GRANTED.

17 IT IS HEREBY ORDERED that the First Amended Complaint, attached as Exhibit 1 to the
18 Motion for Leave to File First Amended Complaint (#34), must be filed on or before February 1, 2013.

19 DATED this 25th day of January, 2013.



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21 CAM FERENBACH
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23 UNITED STATES MAGISTRATE JUDGE
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